

# Exhibit D



DEPARTMENT OF THE NAVY  
OFFICE OF THE SECRETARY  
1000 NAVY PENTAGON  
WASHINGTON DC 20350-1000

SECNAVINST 1000.11  
ASN (M&RA)  
4 Nov 16

SECNAV INSTRUCTION 1000.11

From: Secretary of the Navy

Subj: SERVICE OF TRANSGENDER SAILORS AND MARINES

Ref: (a) DoD Instruction 1300.28 of 1 July 2016  
(b) DTM 16-005, Military Service of Transgender Service Members of 30 June 2016  
(c) ASD(HA) Memo, Guidance for Treatment of Gender Dysphoria for Active and Reserve Component Service Members of 29 July 2016  
(d) USD Memo, Clarification of Procedures to Identify Sex Code Changes for Transgender Service Members of 21 September 2016  
(e) SECNAVINST 5300.28E  
(f) DoD Instruction 6130.03, CH 1 of 13 September 2011  
(g) DoD Instruction 1332.18 of 5 August 2014

Encl: (1) Responsibilities  
(2) Service Implementing Policy and Procedures

1. Purpose. To establish Department of the Navy (DON) policy for the accession and service of transgender Sailors and Marines, to include the process for transgender Service Members to transition gender in-service.

2. Definitions. Definitions are provided in reference (a).

3. Applicability. This instruction applies to all DON military personnel. Specific considerations for Reserve Component personnel are included in reference (a). Refer all DON civilian transgender questions to the DON Office of Civilian Human Resources or the DON Office of the General Counsel. Refer all questions regarding transgender contractors to the Contracting Officer's Representative.

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#### 4. Policy

a. Consistent with the policies and procedures set forth in references (a) and (b), transgender individuals shall be allowed to serve openly in the DON.

b. References (a) through (d) provide Sailors and Marines an in-service process to transition to their preferred gender. These policies are based on the premise that open service by transgender persons who are subject to the same medical, fitness for duty, physical fitness, uniform and grooming, deployability, and retention standards and procedures is consistent with military service and readiness.

c. The DON recognizes a Sailor's or Marine's gender by their gender marker in the Defense Enrollment Eligibility Reporting System (DEERS). Coincident with that gender marker, the Navy and Marine Corps shall apply, and the Service Member is responsible to meet, all standards for uniforms and grooming; body composition assessment (BCA); physical readiness testing (PRT); Military Personnel Drug Abuse Testing Program (MPDATP) participation; and other military standards applied with consideration of the Service Member's gender.

(1) For facilities subject to regulation by the military, the Sailor or Marine will use those berthing, bathroom, and shower facilities associated with the Service Member's gender marker in DEERS.

(2) As the tactical situation allows, Commanders are expected to implement appropriate policies to ensure the privacy protection of individual Sailors and Marines out of courtesy to all and to maintain good order and discipline.

(3) Reference (e) clarifies policy for the direct observation of urinalysis specimen collection. MPDATP policy considers the terms "sex" and "gender marker" as equivalent. Therefore, transgender Service Members providing a urinalysis specimen will be observed by an individual with the same gender marker indicated in DEERS. In selecting an observer, a Commander may employ reasonable accommodations to respect the privacy interests of the Service Members. The selection of an observer must be made in a manner that ensures the integrity of

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the urinalysis program and provides both the Service Member being tested and the observer an environment free from harassment/discrimination.

d. Sailors and Marines with a diagnosis from a military medical provider indicating that gender transition is medically necessary will be provided the medically necessary care and treatment. A medical treatment plan developed by the military medical provider will outline the severity of the Service Member's medical condition, the urgency of any proposed medical treatment, projected timeline for completion of gender transition, and estimated periods of non-deployability and absence. Medical advice to Commanders and Commanding Officers will be provided in a manner consistent with processes used for other medical conditions that may limit the Service Member's performance of official duties.

e. Any medical care and treatment provided to an individual Sailor or Marine in the process of gender transition will be provided in the same manner as other medical care and treatment. Nothing in this instruction will be construed to authorize a Commander or Commanding Officer to deny medically necessary treatment to a Sailor or Marine.

f. Any determination that a transgender Sailor or Marine is non-deployable at any time will be consistent with established DON and Service standards, as applied to other Sailors and Marines whose deployability is similarly affected in comparable circumstances unrelated to gender transition.

g. Commanders and Commanding Officers will assess expected impacts on mission and readiness after consideration of the advice of military medical providers and will address such following this instruction and references (a) and (b). In applying the tools described in reference (a), a Commander or Commanding Officer will not accommodate biases against transgender individuals. If a Sailor or Marine is unable to meet standards or requires an exception to policy (ETP) during a period of gender transition, all applicable tools, including those described in references (a) through (d), will be available to Commanders and Commanding Officers to minimize impacts to the mission and unit readiness. Gender transition dates in the transition plan may be adjusted per reference (a) and enclosure (2) as necessary to support organizational needs.

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h. When the military medical provider determines that a Service Member's gender transition is complete, and at a time approved by the Commander or Commanding Officer in consultation with the transgender Sailor or Marine, the Service Member may submit a request for gender marker change in DEERS, per reference (d). Once the gender marker is changed in DEERS, the Service Member will be recognized in the preferred gender and held to preferred gender standards from that point forward.

i. Policy for service during initial entry training and considerations associated with the first term of service are outlined in reference (a).

j. All Sailors and Marines are entitled to equal opportunity in an environment free from sexual harassment and unlawful discrimination on the basis of race, color, national origin, religion, sex, or sexual orientation. It is the Department of Defense (DoD) and DON's position, consistent with the U.S. Attorney General's opinion, that discrimination based on gender identity is a form of sex discrimination. All personnel will continue to treat each other with dignity and respect. There is zero tolerance for harassing, hazing, or bullying in any form.

5. Responsibilities. See enclosure (1).

6. Accessions

a. Per reference (b), no later than 1 July 2017, the Navy and Marine Corps will begin accessing transgender applicants who meet all standards. The gender identity of an otherwise qualified individual will not bar them from joining the Navy or Marine Corps, from admission to the United States Naval Academy, or from participating in Naval Reserve Officers Training Corps or any other accession program.

b. Medical standards for accession into the Naval service (in reference (f)) help to ensure that those entering service are free from medical conditions or physical defects that may require excessive time lost from duty due to necessary medical treatment or hospitalization, or result in separation from the Service for medical unfitness.

c. A history of gender dysphoria is disqualifying, unless, as certified by a licensed medical provider, the applicant has

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been stable without clinically significant distress or impairment in social, occupational, or other important areas of functioning for 18 months.

d. A history of medical treatment associated with gender transition is disqualifying, unless, as certified by a licensed medical provider:

(1) The applicant has completed all medical treatment associated with the applicant's gender transition; and

(2) The applicant has been stable in the preferred gender for 18 months; and

(3) If the applicant is presently receiving cross-sex hormone therapy post-gender transition, the individual has been stable on such hormones for 18 months.

e. A history of sex reassignment or genital reconstruction surgery is disqualifying, unless, as certified by a licensed medical provider:

(1) A period of 18 months has elapsed since the date of the most recent such surgery; and

(2) No functional limitations or complications persist, nor is any additional surgery required.

f. The 18-month periods may be waived or reduced, in whole or in part, in individual cases for applicable reasons. Requests for waiver or reduction of the 18-month periods shall be sent to the Assistant Secretary of the Navy (Manpower and Reserve Affairs) (ASN (M&RA)) for adjudication.

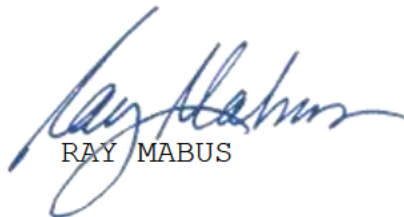
(1) ASN (M&RA) may approve requests for waiver or reduction. ASN (M&RA) may also delegate this approval authority to the Deputy Chief of Naval Operations (Manpower, Personnel, Training, and Education) (DCNO (N1)) and the Deputy Commandant (Manpower and Reserve Affairs) (DC (M&RA)). This approval authority may not be further delegated.

(2) Any requests for waiver or reduction with a recommendation for disapproval shall be sent to the Secretary of the Navy (SECNAV) for decision.

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7. Records Management. Records created as a result of this instruction, regardless of media and format, shall be managed per SECNAV Manual 5210.1 of January 2012.

8. Reports. The reporting requirements within enclosure (1), paragraphs 1a and 1i are exempt from information control per SECNAV M-5214.1 of January 2012, Part IV, paragraphs 7j and 7o respectively.



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### **RESPONSIBILITIES**

1. CNO and CMC shall:

a. Issue policy and procedures addressing the military service of transgender Service Members, to include establishing a process by which transgender Sailors and Marines may transition gender while serving, consistent with mission, training, operational, and readiness needs, and a procedure whereby a Service Member's gender marker will be changed in DEERS. Additional detail on Service implementing policy and procedures is outlined in enclosure (2).

b. Ensure uniform standards, grooming standards, BCA standards, PRT standards, MPDATP standards, and other standards applied with consideration of a Service Member's gender, are applicable to the Service Member's gender marker as reflected in DEERS.

c. Direct the use of berthing, bathroom, and shower facilities according to the Service Member's gender marker as reflected in DEERS, for facilities that are subject to regulation by the military.

d. Provide appropriate privacy for all Sailors and Marines. This may be achieved through expenditure of funds to modify bathroom and shower facilities at Navy and Marine Corps military installations that do not provide reasonable privacy.

e. Ensure that policies and procedures governing Service urinalysis testing program are performed using accepted and established operating procedures which conform to the requirements outlined in reference (e).

f. Ensure medically necessary treatment to transgender Active Duty Service Members is available, in alignment with reference (c).

g. No later than 15 November 2016, create a Service-wide training and education plan, to include specialized training for Commanders and Commanding Officers. The training of Sailors and Marines across the DON shall be completed no later than 1 July 2017.

Enclosure (1)



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h. No later than 1 February 2018, provide an assessment of Navy and Marine Corps transgender service policy, summarizing the impact on military readiness, effectiveness, unit cohesion, recruiting, and retention. The assessment should be informed by surveys and data collected and include any recommended adjustments to DoD and DON policy.

i. Beginning in 2018 and triennially thereafter, support Naval Inspector General Special Inspections of Service compliance with DoD, DON, and Service transgender service policy and procedures.

j. Ensure that all Sailors and Marines are able to perform their duties free from unlawful discrimination and harassment.

k. Ensure the protection of personally identifiable information and personal privacy considerations in the implementation of references (a) through (f), this instruction, and Service regulations, policy, and guidance.

2. Assistant Secretary of the Navy (Manpower and Reserve Affairs) shall:

a. Assess Navy and Marine Corps compliance with references (a) through (d) with coordination from Chief of Naval Operations (CNO) and Commandant of the Marine Corps (CMC) (no later than 1 February 2018) and review of triennial Inspector General Special Inspections.

b. Review requests for waiver or reduction of the 18-month periods of stability for new accessions and submit all requests with a disapproval recommendation to SECNAV for decision.

3. Naval Inspector General shall, beginning in 2018 and triennially thereafter, conduct a Special Inspection of Navy and Marine Corps compliance with references (a) through (d), this instruction, and Service regulations, policy, and guidance.

4. Chief, Bureau of Medicine and Surgery shall:

a. Provide or arrange consultation for medically necessary treatment to Active Duty Service Members per references (c) and (d), ensuring standardized healthcare.

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b. Ensure referral for a determination of fitness in the disability evaluation system per reference (g).

c. No later than 15 November 2016, develop an education and training plan for both privileged and non-privileged medical personnel.

d. For Reserve Component Service Members not on active duty for more than 30 days, review and approve medical diagnosis and treatment plans, in alignment with references (a), (c), and (d).

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**SERVICE IMPLEMENTING POLICY AND PROCEDURES**

1. The CNO and CMC shall establish policy and procedures per references (a) through (d) and this instruction, outlining the actions a Commander may take to minimize impacts to the mission and ensure continued unit readiness in the event that a transitioning individual is unable to meet standards or requires an ETP during a period of transition. Such policies and procedures may address the means and timing of transition, procedures for responding to an ETP prior to the change of a Service Member's gender marker in DEERS, appropriate duty statuses, and tools for addressing an inability to serve throughout the gender transition process. Any such actions available to the Commander or Commanding Officer will consider and balance the needs of the individual and the needs of the command in a manner comparable to the actions available to the Commander or Commanding Officer in addressing comparable Service Member circumstances unrelated to gender transition. Such actions may include:

a. Adjustments to the date on which the Sailor's or Marine's gender transition, or any component of the transition process, will commence.

b. Advising the Sailor or Marine of the availability of options for extended leave status or participation in other voluntary absence programs during the transition process.

c. Arrangements for the transfer of the Sailor or Marine to another organization, command, location, or duty status (e.g. Individual Ready Reserve), as appropriate, during the transition process.

d. ETPs associated with changes in the Service Member's physical appearance and body composition during gender transition, such as accommodations in the application of standards for uniforms and grooming and MPDTP participation.

e. Establishment of, or adjustment to, local policies on the use of berthing, bathroom, and shower facilities subject to regulation by the military, during the transition process.

f. Other actions, including the initiation of administrative or other proceedings, comparable to actions that

Enclosure (2)

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could be initiated with regard to others whose ability to serve is similarly affected for reasons unrelated to gender transition.

2. The CNO and CMC shall establish policies and procedures, consistent with references (a) through (d) and this instruction, whereby a Sailor's or Marine's gender marker will be changed in DEERS based on a determination by the military medical provider that the Service Member's gender transition is complete; receipt of written approval from the Commander or Commanding Officer, issued in consultation with the Service Member; and production by the Service Member of documentation indicating gender change. Guidance on such documentation is outlined in reference (a).